

## ENGROSSED 1999 SENATE BILL 144

March 8, 2000 – Printed by direction of ASSEMBLY CHIEF CLERK.

1     **AN ACT** *to amend* 101.123 (4) (a) 2., 165.755 (1) (b), 165.87 (2) (a), 302.46 (1) (a)  
2             and 814.63 (1) (c); and *to create* 101.123 (1) (ar), 101.123 (2) (ar) and 101.123  
3             (8) (b) of the statutes; **relating to:** prohibiting smoking in the state capitol  
4             building and on the state capitol grounds, granting rule-making authority and  
5             providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

#### ***Engrossment information:***

The text of Engrossed 1999 Senate Bill 144 consists of the bill, as passed by the senate on March 7, 2000, as affected by the following documents adopted in the senate on March 7, 2000: Senate Amendment 1 (as affected by Senate Amendment 1 thereto).

#### ***Content of Engrossed 1999 Senate Bill 144:***

Current law, with some exceptions, prohibits smoking in public conveyances, inpatient health care facilities, indoor movie theaters, offices and passenger elevators, retail establishments, public waiting rooms, enclosed indoor areas of buildings owned by local or state units of government, motor buses, hospitals, physicians' offices, day care centers, educational facilities that offer state-approved or state-licensed instruction for training and any restaurant whose seating capacity exceeds 50 persons and whose receipts from the sale of beer or liquor, or both, amount to 50% or less of the restaurant's receipts. In some instances, however, a person in

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charge of an area in which smoking is prohibited, or his or her agent, may designate smoking areas within the area over which the person has charge.

This bill expands coverage of the existing law to prohibit smoking in the state capitol building and in the immediate vicinity of the state capitol building. The bill directs the department of administration to promulgate a rule defining the area that qualifies as the immediate vicinity of the state capitol building, except that, under the bill, the immediate vicinity of the state capitol building does not include any location that is more than one fathom from the state capitol building. The bill also provides that no person may designate a smoking area in the state capitol building or in the immediate vicinity of the state capitol building. A person who violates the bill after being advised that smoking is prohibited must forfeit up to \$50.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1m.** 101.123 (1) (ar) of the statutes is created to read:

2           101.123 (1) (ar) “Immediate vicinity of the state capitol” means the area  
3 directly adjacent to the state capitol building, as determined by rule of the  
4 department of administration. “Immediate vicinity of the state capitol” does not  
5 include any location that is more than one fathom from the state capitol building.

6           **SECTION 2.** 101.123 (2) (ar) of the statutes is created to read:

7           101.123 (2) (ar) Notwithstanding par. (a) and sub. (3), no person may smoke  
8 in the state capitol building or in the immediate vicinity of the state capitol.

9           **SECTION 3.** 101.123 (4) (a) 2. of the statutes is amended to read:

10           101.123 (4) (a) 2. A person in charge or his or her agent may not designate an  
11 entire building as a smoking area or designate any smoking areas in the state capitol  
12 building, in the immediate vicinity of the state capitol, in a motor bus, hospital or  
13 physician’s office or on the premises, indoors or outdoors, of a day care center when  
14 children who are receiving day care services are present, except that in a hospital or  
15 a unit of a hospital that has as its primary purpose the care and treatment of mental  
16 illness, alcoholism or drug abuse a person in charge or his or her agent may designate

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1 one or more enclosed rooms with outside ventilation as smoking areas for the use of  
2 adult patients who have the written permission of a physician. Subject to this  
3 subdivision and sub. (3) (b), a person in charge or his or her agent may not designate  
4 an entire room as a smoking area.

5 **SECTION 4.** 101.123 (8) (b) of the statutes is created to read:

6 101.123 **(8)** (b) Any person who wilfully violates sub. (2) (ar) after being advised  
7 by an employe of the facility that smoking in the area is prohibited shall forfeit not  
8 more than \$50.

9 **SECTION 5.** 165.755 (1) (b) of the statutes is amended to read:

10 165.755 **(1)** (b) A court may not impose the crime laboratories and drug law  
11 enforcement assessment under par. (a) for a violation of s. 101.123 (2) (a), (am) 1. ~~or~~  
12 (ar) or (bm) or (5) (b) or for a violation of a state law or municipal or county ordinance  
13 involving a nonmoving traffic violation or a safety belt use violation under s. 347.48  
14 (2m).

15 **SECTION 6.** 165.87 (2) (a) of the statutes is amended to read:

16 165.87 **(2)** (a) Whenever a court imposes a fine or forfeiture for a violation of  
17 state law or for a violation of a municipal or county ordinance except for a violation  
18 of s. 101.123 (2) (a), (am) 1. ~~or~~ (ar) or (bm) or (5) or state laws or municipal or county  
19 ordinances involving nonmoving traffic violations or safety belt use violations under  
20 s. 347.48 (2m), there shall be imposed in addition a penalty assessment in an amount  
21 of 23% of the fine or forfeiture imposed. If multiple offenses are involved, the penalty  
22 assessment shall be based upon the total fine or forfeiture for all offenses. When a  
23 fine or forfeiture is suspended in whole or in part, the penalty assessment shall be  
24 reduced in proportion to the suspension.

25 **SECTION 7.** 302.46 (1) (a) of the statutes is amended to read:

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1           302.46 (1) (a) On or after October 1, 1987, if a court imposes a fine or forfeiture  
2 for a violation of state law or for a violation of a municipal or county ordinance except  
3 for a violation of s. 101.123 (2) (a), (am) 1. ~~or~~ (ar) or (bm) or (5) or state laws or  
4 municipal or county ordinances involving nonmoving traffic violations or safety belt  
5 use violations under s. 347.48 (2m), the court, in addition, shall impose a jail  
6 assessment in an amount of 1% of the fine or forfeiture imposed or \$10, whichever  
7 is greater. If multiple offenses are involved, the court shall determine the jail  
8 assessment on the basis of each fine or forfeiture. If a fine or forfeiture is suspended  
9 in whole or in part, the court shall reduce the jail assessment in proportion to the  
10 suspension.

11           **SECTION 8.** 814.63 (1) (c) of the statutes is amended to read:

12           814.63 (1) (c) This subsection does not apply to an action for a violation of s.  
13 101.123 (2) (a), (am) 1. ~~or~~ (ar) or (bm) or (5) or a safety belt use violation under s.  
14 347.48 (2m).

15           **SECTION 9m. Nonstatutory provisions.**

16           (1) SUBMISSION OF PROPOSED RULE DETERMINING THE IMMEDIATE VICINITY OF THE  
17 STATE CAPITOL. No later than the first day of the 3rd month beginning after  
18 publication, the department of administration shall submit in proposed form the rule  
19 determining the area that qualifies as the immediate vicinity of the state capitol  
20 under section 101.123 (1) (ar) of the statutes, as created by this act, to the legislative  
21 council staff under section 227.15 (1) of the statutes. The proposed rule shall include  
22 a diagram that illustrates the area that qualifies as the immediate vicinity of the  
23 state capitol.

24           **SECTION 10m. Effective dates.** This act takes effect on the first day of the 6th  
25 month beginning after publication, except as follows:

